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NO. 63438-1-I

WASHINGTON STATE COURT OF APPEALS, DIVISION I

LYNETTE KATARE,

Respondent,

v.

BRAJESH KATARE,

Appellant.

APPELLANT'S STATEMENT OF ADDITIONAL AUTHORITIES

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Pursuant to RAP 10.8, Appellant Brajesh Katare submits the following additional authority from the appellate record which relates to the question raised by the panel in oral argument on May 27 as to certain declarations admitted in the 2003 trial supposedly corroborating Lynette's claim Brajesh made threats to abduct the children, and the fact Judge Roberts made no finding that Brajesh made a threat to abduct the children after the 2003 trial:

Appendix H to Brajesh Katare's Reply Brief in *Katare II*, which is pages 11 – 13 of Brajesh's trial memorandum and CP 84-86 in *Katare II*. A copy is attached.

This document is included in the record of this case (*Katare III*) as pp. 387-390 of Appendix H which was provided on the CD-Rom. A copy is attached for the convenience of the Court.

Respectfully submitted this 28th day of May, 2010.

CARNEY BADLEY SPELLMAN, P.S.

By: 

 #14405

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In re the Marriage of:

LYNETTE KATARE,

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CERTIFICATE OF SERVICE

I declare under penalty of perjury that I caused copies of the *APPELLANT'S STATEMENT OF ADDITIONAL AUTHORITIES*, and this *Certificate of Service* by causing a true copy thereof to be served to counsel of record on May 28, 2010 as follows:

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DATED this 28th day of May, 2010.


Patti Saidu, Legal Assistant

Appendix H:

Excerpt Respondent's Trial Memorandum, pp. 11-13
CP 84-86

1 This language is perfectly clear; this court is to approach the vital question of the permanent
2 parenting plan in this case as a "clean slate," not influenced by the temporary parenting plan and
3 is to be concerned only with the future relationship of Brajesh Katare with his children.

4 **F. False Statements were Obtained to Support Restrictions on Brajesh.**

5 There is one major factual element that makes it appear extremely likely that certain
6 "corroborating" witnesses in Florida were induced to give false testimony to support Ms.
7 Katare's position. Ms. Waldroup discussed the risk of abduction on page 18 of her report:

8 Risk of abduction:

9 No evaluation of this type can tell whether the father will abduct the children. I
10 am not aware of any criteria that can predict if such would occur. The Katare's
11 situation is somewhat unusual in that there is not only the allegation of abduction
12 but corroboration of two witnesses hearing the threat that Brajesh would take the
13 children to India, "with or without" their mother. As Brajesh denies these
14 statements it is impossible to evaluate whether the statements were said in crisis
15 to pressure the mother to move to India, rather being his literal intent or whether
16 Brajesh truly intended to remove the children from the country without the
17 mother's consent. Emphasis added.

18 Ms. Waldroup obviously placed great weight on the fact that she felt she had found two
19 corroborating witnesses. In fact, when the facts and the record are explored more closely,
20 there is no corroboration and these two witnesses gave false statements to Ms. Waldroup.
21 The specific testimony of these two witnesses is discussed at page 15 of the Waldroup
22 report, in the second paragraph of Exhibit 25. The key phrase relied on by Waldroup as
23 her corroboration was the supposed threat that Brajesh "would take the children to India
24 with or without their mother." Ines Cidras is the first witness who told Waldroup that
Brajesh said that he would "come and get the children and take them to India without
her." The second witness, Gloria Amorelli is alleged to have been told by Brajesh after

1 the funeral of Lynette Katare's grandfather in June, 2002 "that he was taking the kids to
2 India with or without her."

3 The first comment is that the time and billing records of Ms. Waldroup, which are
4 included in Exhibit 113, indicate that she spoke with Ms. Cidras and Ms. Amorelli on
5 November 11, 2002 in consecutive telephone calls. She apparently got virtually the same
6 phraseology from each of these people in these two calls. Clearly, the phrase alleged to
7 have been used by Brajesh that he would "take the children to India with or without
8 Lynette" is direct, dramatic and unforgettable. However, if we look at the other
9 documents in this record, it becomes apparent that those statements were never made by
10 Brajesh to those people.

11 Exhibit 141 is the August 26, 2002 handwritten declaration of Ines Cidras which
12 was filed with the King County clerk on September 5, 2002. Exhibit 140 is the August
13 25 statement of Gloria Amorelli, filed with the clerk on the same date. What is striking
14 about these two documents is that although they discuss the matters relating to the
15 conflict about the family making a temporary move to India, in neither of these two
16 earlier statements by Cidras and Amorelli do they mention anything about the dramatic
17 language quoted above and relied on for corroboration by Ms. Waldroup. It is virtually
18 impossible to believe that Amorelli and Cidras would not have recalled in August the
19 dramatic "threat" by Brajesh, but would each have a recollection in November when they
20 spoke with Waldroup of exactly the same phraseology allegedly used by Brajesh.

21 In this same context, it should also be noted that Ms. Katare did not state in her
22 exhaustive declaration filed on September 5, 2002 (Exhibit 160) or in the similarly long
23 declaration filed when this case was initiated on July 23, 2002 (Exhibit 159) anything
24

1 about threats to take the children to India "with or without her" as having been heard by
2 either Amorelli or Cidras. Since the Cidras story is that Ms. Katare asked Cidras to pick
3 up the telephone and listen to the telephone conversation when she was speaking with
4 Brajesh, it is truly unbelievable that Ms. Katare would not have remembered and stated
5 that dramatic moment in these two long declarations. The only conclusion is that Ms.
6 Katare felt the need to have some corroboration for her fears, that she gave the names of
7 her good friends Cidras and Amorelli to Margo Waldroup and then told Cidras and
8 Amorelli exactly what to tell Ms. Waldroup. There is virtually no other explanation for
9 these glaring inconsistencies.

10 Ms. Katare is a summa cum laude college graduate, has a finance MBA and has worked
11 at GTE for several years and at Microsoft. She is very smart and accomplished, but it is
12 unfortunately necessary to point out that she is so overly invested in attacking Brajesh and taking
13 every step she can to make certain that she has total control of the children and that he is forced
14 out of their lives, that she is willing to do anything to achieve that end. To her, the ends justify
15 the means. Ms. Katare has tried to explain away the huge discrepancy between her version of
16 events and that of virtually everyone else about Brajesh and what the photographs and other
17 evidence tend to show about the relationship of Ms. Katare and Brajesh and of Brajesh with the
18 children in the period before the turmoil of June and July, 2002. Ms. Katare demonstrates bad
19 faith in her attacks on Brajesh by the false and obsessive detail of his claimed faults and in
20 causing false statements to be given on her behalf to Margo Waldroup in order to deprive him of
21 the proper and important relationship with the children.

22 A further example of her rigidity in allowing Brajesh Katare time with the children is that
23 he was not allowed to have residential time with them on Thanksgiving, on Christmas Day, on
24